

**LICENSING AND ENVIRONMENTAL REGULATION
COMMITTEE**

MEETING, 25th AUGUST 2015

Present – Councillors Donaghy (Chairman), Haworth (Vice-Chairman), L. Byrne, D. Burrows (as deputy for Councillor C. Burrows), Chadwick, Mrs Fairclough, Graham, Greenhalgh, Haslam, Martin, Murray, Richardson, Watters and Wild.

Councillor Donaghy in the Chair.

10. MINUTES OF PREVIOUS MEETING

The minutes of the proceedings of a meeting of the Committee held on 21st July, 2015 were submitted.

Resolved – That the minutes be agreed and signed as a correct record.

**11. APPLICATION TO RENEW A SEX SHOP LICENCE
LER/22/15**

The Director of Environmental Services submitted a report which requested members to consider an application to renew a sex shop licence in respect of premises at the rear of 72, Newport Street, Bolton.

The application had been advertised in accordance with the provisions of the Act and no objections had been received.

Resolved – That the application to renew the sex shop licence at the rear of 72, Newport Street, Bolton be granted.

**12. APPLICATION TO RENEW A SEX SHOP LICENCE
LER/23/15**

The Director of Environmental Services submitted a report which requested members to consider an application to renew a sex shop licence in respect of premises at 201, St. George's Road, Bolton.

The application had been advertised in accordance with the provisions of the Act and no objections had been received.

Resolved – That the application to renew the sex shop licence at 201, St. George's Road, Bolton be granted.

13. LICENSING FEES REVIEW 2015-2016

The Director of Environmental Services submitted a report which informed members of the annual Licensing fees review and set out the proposed fee structure, as required by the Provisions of Services regulations, 2009.

The report explained that the Licensing Unit was responsible for the administration of a wide range of functions where statute required a licence, permit or consent to be issued and for discharging the related enforcement functions.

The functions included private hire and hackney carriage licensing, alcohol and entertainment licenses, casino and betting licensing together with street trading, charity collections and sex shops.

Members were advised that most, but not all, of the functions carried out by the unit permit the Council to charge a fee.

The last review of fees was carried out to set the fees for 2010-2011 and a decision was taken not to increase the fees from those set in 2008.

New legislation and guidance on fee setting had been introduced and fees should be reviewed annually and adjusted as and when appropriate. This was to ensure that fees were levied at an appropriate level to recover the full costs.

In conclusion, the report explained that the proposed fees had been independently calculated by the Council's financial officers and the methodology used had been scrutinised and approved by Internal Audit.

A complete list of the current and proposed locally set fees was set out at appendix A to the report.

Resolved – That approval be given to -

- (i) the proposed principles and methodology for the setting of the fees;
- (ii) publish the proposed fees and consider any objections prior to implementation of the revised fees;
- (iii) the carrying forward of any surplus or deficit to future financial years and for such surplus or deficit to be considered in the setting of future locally set fees;
- (iv) a phased approach to any renewal fee increases (for existing private hire and hackney carriage drivers);
- (v) Delegate authority to the Director of Environmental Services to resolve challenges relating to any current and future challenges in relation to licensing fees; and
- (vi) Delegate authority to the Director of Environmental Services to determine the appropriate refund level in relation to unsuccessful applicants.

14. EXCLUSION OF PRESS AND PUBLIC

Resolved – That, under Section 100A(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items of business on the grounds that it involves the likely disclosure of exempt information as specified in paragraph 3 (financial and business affairs) of Part 1 of Schedule 12A to the Act; and that it be deemed that, in all the circumstances of the case, the public interest in its exemption outweighs the public interest in its disclosure.

15. MISCONDUCT BY LICENSED PRIVATE HIRE DRIVER LER/20/15

The Director of Environmental Services submitted a report which set out details of convictions against a private hire driver during the period of his licence.

The Committee heard representations both verbally and in writing from Miss Clyne, Principal Licensing Officer.

The driver attended the meeting.

The Committee gave careful consideration to the information provided in the report and on questioning the evidence from the driver.

Resolved – That the licence to drive a private hire vehicle be suspended for a period of three months on the basis that the Committee is not satisfied that the driver is a fit and proper person to hold a licence at this time.

In coming to its decision the Committee was mindful of its duty to protect the public and the offences related to driving without due care and attention and breach of requirements as to control of the vehicle mobile phones, connected with this. The offence of driving without due care and attention, which resulted in 6 penalty points, is a serious traffic offence under the Council's Policy.

Also, plying for hire without a licence and connected with this, using a vehicle uninsured against third party risks which is a serious traffic offence and puts the travelling public at risk.

Following consideration of all the evidence the Committee find, on the balance of probabilities, that the driver is not a fit and proper person at this time. Drivers are placed in a position of trust and have a duty to conduct themselves in a professional manner at all times and to drive safely.

The Committee, in coming to its decision, specifically also took account of, viz-

- At the time of the second alleged offences the driver was driving in his capacity as a private hire driver and had agreed to take two unidentified enforcement officers on a journey without prior booking with the operator;
- The driver's admission of the offences;
- This being the second time the driver had been convicted of using a mobile phone whilst in control of a vehicle since 2008 and was driving in his capacity as a private hire driver;
- Matters concerning the guidance in the Council's Licensing Policy relating to Traffic Offences of plying for hire and serious traffic offences; and
- The Committee found the loss of livelihood to be an irrelevant consideration.

The Committee's primary duty is of concern for the safety and wellbeing of the public and this includes the most vulnerable in the community and the driver would be working in an unsupervised environment.

There is therefore reasonable cause to suspend the licence as a warning and a deterrent.

16. MISCONDUCT BY LICENSED PRIVATE HIRE DRIVER LER/21/15

The Director of Environmental Services submitted a report which set out details of a complaint which had been received against a private hire driver during the period of his licence.

The Committee heard representations both verbally and in writing from Miss Clyne, Principal Licensing Officer.

The driver and his representative attended the meeting. A witness referenced DG attended the meeting.

The Committee gave careful consideration to the information provided in the report and on questioning the evidence from the driver and the witness.

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Resolved – That the licence to drive a private hire vehicle be revoked on the basis that the Committee is not satisfied that the driver is a fit and proper person to hold a licence at this time.

In coming to its decision the Committee was mindful of its duty to protect the public and the complaint related to driving without due care and attention at a School Crossing Patrol, driving through the stop sign which required a child to be pulled back to safety.

This complaint comes against a background of other previous complaints about the driver's driving.

Following consideration of all the evidence the Committee find, on the balance of probabilities that the driver did drive without due care and attention at the School Crossing Patrol. Drivers are placed in a position of trust and have a duty to conduct themselves in a professional manner at all times.

The Committee, in coming to its decision, specifically also took account of, viz-

- At the time of the alleged offence the driver was driving in his capacity as a private hire driver;
- The driver did not admit the offence which the Committee did not find credible;
- The background of other recent complaints about the drivers standard of driving, a history of motoring convictions and three previous appearances before this Committee;
- The evidence of the witness which the Committee found credible; and
- Matters concerning the guidance in the Council's Licensing Policy relating to this complaint.

The Committee's primary duty is of concern for the safety and wellbeing of the public and this includes the most vulnerable in the community and the driver would be working in an unsupervised environment.

There is therefore reasonable cause to revoke the licence with immediate effect under Section 61 (2B) of the Local Government (Miscellaneous provisions) Act, 1976 in the interests of public safety.

**17. MISCONDUCT BY LICENSED PRIVATE HIRE DRIVER
LER/24/15**

The Director of Environmental Services submitted a report which set out details of a complaint which had been received against a private hire driver during the period of his licence.

The Committee heard representations both verbally and in writing from Miss Clyne, Principal Licensing Officer.

The driver and his representative attended the meeting.

The Committee gave careful consideration to the information provided in the report and on questioning the evidence from the driver.

Resolved – That the licence to drive a private hire vehicle be revoked on the basis that the Committee is not satisfied that the driver is a fit and proper person to hold a licence at this time.

In coming to its decision the Committee was mindful of its duty to protect the public and the driver was convicted of entering into an arrangement to facilitate acquisition, retention or use of criminal property and received a 10 month suspended prison sentence.

Following consideration of all the evidence the Committee find that the offence, although not one which is specifically referred to in the Convictions Policy, is one of serious dishonesty. In sentencing the court clearly found the offence crossed the custody threshold. Drivers are placed in a position of trust and have a duty to conduct themselves in a professional manner at all times.

The Committee, in coming to its decision, specifically also took account of, viz-

- The prosecution and subsequent conviction of the driver for the dishonesty offence;
- The driver's admission of the offence;
- Matters concerning the guidance in the Council's Licensing Policy relating to cases of dishonesty, in particular that an applicant with convictions for dishonesty which are less than 3-5 years old is likely to be refused; and
- The Committee found matters around the loss of livelihood to be an irrelevant consideration.

The Committee's primary duty is of concern for the safety and wellbeing of the public and this includes the most vulnerable in the community and the driver would be working in an unsupervised environment.

There is therefore reasonable cause to revoke the licence with immediate effect under Section 61 (2B) of the Local Government (Miscellaneous provisions) Act, 1976 in the interests of public safety.

(The meeting started at 3.00pm and finished at 6.10pm)